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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,877	06/20/2001	David S. Teppo	STE01 P-1097	4510

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EXAMINER

HARRIS, STEPHANIE N

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/885,877	Applicant(s) TEPPO ET AL.	
	Examiner Stephanie N. Harris	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7 and 10-24 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 10, 11, 16-24 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The finality of the last office action, dated May 22, 2003 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Massara et al. (USPN 5868466). This action will now place the case under final rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 7, 10, 11, 19, 20, 21, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Massara et al. (USPN 5868466).

Massara discloses a back construction for a seating unit comprising a flexible back panel (42) made of incompressible material that resists shortening when stressed and that is configured to support a seated user's torso as seen in Figure 1. The back panel includes a stiff top section, a stiff bottom section, and a flexible lumbar section as seen in Figure 1. A bladder (28) can be attached to the stiff top and bottom sections and spans the flexible lumbar section of the flexible back panel so that when the bladder expands in one direction and simultaneously shortens in a different vertical direction as seen in Figures 2-4. The lumbar section bends and the back panel is flexed to a different vertical shape as seen in Figures 2-4.

Regarding claim 2, the bladder is elongated, the different direction that shortens extends parallel a length of the elongated bladder as seen in Figures 2-4.

Regarding claim 3, the one direction is parallel a thickness direction as seen in Figures 2-4.

Regarding claims 7 and 19, a fluid air pump is operably connected to the bladder (Col. 2, lines 45-58).

Regarding claim 11, the bladder extends vertically from top to bottom of the back shell, but extends only partially horizontally across the back shell as seen in Figure 1.

Regarding claim 20, the back frame (18) is rigid as seen in Figure 1.

Regarding claim 21, the back panel (42) is slidably attached to the back frame at a bottom location (20) as seen in Figure 1.

Regarding claim 24, the back panel includes a front surface, and the energy mechanism (28) is laid on and against the front surface as seen in Figures 2-4.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Massara et al. (USPN 5868466) in view of Ishida et al. (USPN 4807931).

Massara has been described above. Massara shows all of the teachings of the claimed invention but fails to show the use of a bladder with multiple pleats.

Regarding claim 5, the bladder includes multiple pleats (40,41) that extend in a direction perpendicular to the different direction that occurs when the bladder expands in one direction and simultaneously shortens in a different direction (Col. 2, lines 48-62). Regarding claim 6, the pleats (40,41) extend horizontally as seen in Figure 2. Regarding claim 23, the bladder (28) includes transverse pleats (40,41) subdividing a length of the bladder into a plurality of sub-compartments as seen in Figure 2.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bladder of Johnson with the a bladder that includes multiple pleats and whose length extends in a vertical direction, as shown by Ishida et al., in order to allow for even expansion of the bladder.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Massara et al. in view of Peterson et al. (USPN 6079785).

Massara has been described above. Massara shows all of the teachings of the claimed invention but fails to show the use of vertically extending side strips.

Regarding claim 10, Peterson discloses that the lumbar section includes vertically extending side strips (28) that flex and includes horizontally extending strips (49) that extend between the side strips (Col. 3, lines 17-23).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the lumbar section of Massara with the vertically and horizontally

extending strips, as shown by Peterson, in order to provide additional reinforcing means for the lumbar support.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Massara in view of Schrewe et al. (USPN 5758925).

Massara has been described above. Massara shows all of the teachings of the claimed invention but fails to show the use of a bladder that is riveted to the back shell.

Regarding claim 16, Schrewe et al. discloses a bladder (106) that is riveted to a back shell (103) as seen in Figure 15. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the back shell of Massara by adding a bladder that is riveted, as shown by Schrewe et al., in order to provide a more secure means for the attachment between the bladder and the back shell.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Massara et al. in view of Green (USPN 5599219).

Massara has been described above. Massara shows all of the teachings of the claimed invention but fails to show the use of a bladder that includes multiple layers and a nylon structural layer and an elastic urethane layer.

Regarding claims 17 and 18, Green discloses a bladder (55) that includes multiple layers (Col. 3, lines 4-10). It is inherent that a nylon structural layer (60,61) will be flexible but non-stretchable and providing strength (Col. 1, lines 24-29). An elastic urethane layer (58, 59) is flexible and air impermeable to provide an air-receiving cavity

(Col. 2, lines 39-46). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bladder of Massara by replacing it with the bladder with a nylon structural layer and an elastic urethane layer, as shown by Green, in order to control the form of the inflated bladder.

Allowable Subject Matter

Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 5-7, and 10-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie N. Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

SNH

December 22, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600